

ADMINISTRATION OF JUSTICE DEPARTMENT

The 5th February, 1982

No. 20/5/78-JJ(4) Part II.—Whereas it is considered necessary to provide legal service to the poor and weaker sections of people in the State with a view to bringing the system of their reach and to ensure that opportunities of securing justice are not denied by reasons of financial and other disabilities:

Now, therefore, the Governor of Haryana is pleased to make the following rules for free legal aid to the poor, namely :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) These rules may be called the “Haryana Grant of Free Legal Service and Advice to the Poor Rules, 1982.”

(2) These rules shall come into force on the date of their publication in the Official Gazette.

2. *Definitions.*—In these rules unless the context otherwise requires :—

- (a) “aided person” means a person to whom legal aid and service is provided in accordance with the provisions of these rules;
- (b) “Board” means the Haryana State Legal Service and Advice Board;
- (c) “committee” means the State Level Legal Service and Advice Committee or the District Level Legal Service and Advice Committee, as the case may be; constituted under these rules;
- (d) “eligible person” means a person eligible for aid under the rules;
- (e) “Government” means the State Government of Haryana;
- (f) “Legal Practitioner” shall have the meaning assigned to that expression in the Advocates Act, 1961;
- (g) “Legal advice” means oral legal advice or written legal advice as the nature of the case may require;
- (h) “Legal aid” means legal aid in any of or all of the modes provided under these rules;
- (i) “Legal proceedings” means civil, criminal, revenue or any other proceedings arising under any law for the time being in force from inception to final disposal in a court of law and includes preparatory steps for institution of such proceedings.

CHAPTER-II

Constitution, Powers and Functions of the Board

3. There shall be constituted a Board for the purpose of these rules, called the Haryana State Legal Service and Advice Board and shall consist of the following members :—

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| 1. The Chief Minister, Haryana | .. President |
| 2. Minister for the Administration of Justice Department, Haryana | .. Vice-President |
| 3. Hon'able Justice Sh. M. R. Sharma, Judge of Punjab and Haryana High Court | .. Member |
| 4. Secretary to Govt., Administration of Justice Department Haryana. | .. Member |
| 5. Legal Remembrancer and Secretary to Govt., Haryana | .. Member |

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| 6. Advocate-General, Haryana | .. Member |
| 7. Director of Prosecution, Haryana | .. Member |
| 8. One Member of Parliament to be nominated by Govt. | .. Member |
| 9. One M. L. A. to be nominated by the Government | .. Member |
| 10. Chairman of the Bar Council of Punjab and Haryana High Court | .. Member |
| 11. Two representatives of legal profession to be nominated by the State Government | .. Member |
| 12. One representative of women to be nominated by the State Government | .. Member |
| 13. One representative of Scheduled Caste/Scheduled Tribe to be nominated by the Government | .. Member |
| 14. Jt. Secretary to Government, Haryana, Administration of Justice Department | .. Member-Secretary. |

4. *Term of Office.*—(1) The term of office of a Member of the Board, other than an *ex-officio* member, shall be two years;

(2) If any member fails without sufficient cause to attend three consecutive meetings of the Board, he shall cease to be a member of the Board;

(3) The President of the Board shall have the power to curtail the term of any member at any time, if he finds that such member is not taking sufficient interest in the activities of the Board; and

(4) If any member ceases to be member of the Board for any reason, the Vacancy shall be filled up in the same manner as the original appointment and the person nominated will continue to be a member for the duration of the term of office of the member in whose place he is nominated.

5. *Powers and Functions.*—The Board shall be in overall charge of setting up administration and supervision of the legal aid programme in the State and shall in particular exercise the following powers and perform the following functions; namely :—

- (a) allot funds to the various Committees from out of the amount placed at its disposal by the State Government, the Government of India and other authorities;
- (b) lay down policies and give general or special directions to the various Committees for the proper administration and implementation of the legal aid programme and for proper and adequate discharge of their duties and functions;
- (c) hold and conduct seminars and conferences for creating awareness of the importance of the programme in the public; and
- (d) perform such other duties and discharge such other function for effectively implementing of the legal aid programme as the State Government may direct.

6. *Honoraria, T. A. and D. A.*—(1) No member of the Board shall be entitled to any remuneration.

(2) The members of the Board who are nominated from the Parliament/State Legislature shall be paid travelling and daily allowances as may be admissible to them in their capacity as member of the Parliament/State Legislature.

(3) The *ex-officio* members shall be entitled to travelling and daily allowances according to the rules applicable to them. The other members shall be paid these allowances as are admissible to Grade-I officers of the State Government under the normal rules.

7. *Funds.*—(1) The State Government shall place at the disposal of the Board, from time to time, the necessary funds for implementation of the legal aid programme.

(2) The Board shall also be entitled to receive and accept donations and grants for the programme.

(3) The Board shall out of the funds at its disposal make available necessary finances to the Committees in such manner and to such extent as it thinks reasonable.

(4) The Board shall maintain true and proper accounts of the receipts and disbursements of all its funds. The accounts of the Board shall be audited in such manner as the State Government may determine.

5. *Headquarters of the Board.*—The office of the Board shall be located in Chandigarh or at such other place as the Government may specify and the State Government shall provide suitable office accommodation and adequate staff for carrying out functions of the Board.

CHAPTER-III

Constitution, Powers and Functions of the Committees

9. For the purpose of administering and implementing the legal aid programme in the State there shall be constituted the following committees; namely :—

- (i) The State Level Legal Service and Advice Committee in relation to the provision of Legal Service and Advice to the eligible persons in the Hon'ble High Court for the States of Punjab and Haryana and the Hon'ble Supreme Court of India ;
- (ii) The District Level Legal Service and Advice Committees for every District in relation to the provision of legal service and advice to the eligible persons at District, Sub-Division and Tehsil headquarters.

10. *Composition of the Committees.*—(1) The State Level Legal Service and Advice Committee (hereinafter called the State Level Committee) shall consist of the following members, namely:—

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| 1. Hon'ble Justice M. K. Sharma,
Judge of Punjab and Haryana High Court | .. Chairman |
| 2. Secretary to Government, Haryana, Administration
of Justice Department | .. Member |
| 3. Legal Remembrancer and Secretary to Government,
Haryana | .. Member |
| 4. Advocate-General, Haryana | .. Member |
| 5. Jt. Secretary to Government, Haryana,
Administration of Justice Department | .. Member-Secretary |

(2) The District Level Legal Service and Advice Committee (hereinafter called the District Level Committee) shall consist of the following members, namely:—

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| 1. District/Additional District and Sessions
Judge, as the case may be | .. Chairman |
| 2. District Magistrate or his nominee | .. Member |
| 3. President of the District Bar Association | .. Member |
| 4. Two members of the District Bar Association
to be nominated by the District Magistrate
in consultation with the District and Sessions
Judge | .. Members |
| 5. Member representing women to be nominated
by the State Government | .. Member |
| 6. One member representing Scheduled Caste/
Scheduled Tribe to be nominated by the
State Government | .. Member |
| 7. District Attorney | Member-Secretary. |

11. *Term of Office.*—The tenure of the office of nominated members shall be two years :

Provided that, if any such member fails without sufficient cause to attend three consecutive meetings of the committee, he shall cease to be such member and the decision of the Chairman on the question whether he has ceased to be such a Member or not, shall be final.

12. *Power, duties and functions of the State Level Committee.*—It shall exercise the following powers and perform the following functions, namely:—

- (a) to receive and investigate application for legal service and advice to eligible person with regard to the legal proceedings in the Hon'ble High Court of Punjab and Haryana at Chandigarh and in the Hon'ble Supreme Court of India;
- (b) to maintain Panels of legal practitioners in the High Court and Supreme Court to give legal service and advice;
- (c) to decide all questions as to grant of or withdrawal of legal aid;
- (d) to arrange to make payment of honorarium to legal practitioners on the panel for legal service or advice provided by them and generally to provide for other costs, charges and expenses of legal aid from funds placed at the disposal of the committee ;
- (e) to prepare, consolidate and submit such returns, reports and statistical information in regard to the legal aid programme within its areas of jurisdiction, as the Board may call for;
- (f) to submit recommendations and suggest improvements in the working of legal service;
- (g) to supervise, review, guide and direct the working of the District Level Committee; and
- (h) to call for from the District Level Committees, such periodical returns, reports and other statistics or information as it may think fit or as are required to be submitted by the Board.

13. *Powers, duties and functions of the District Level Committee.*—It shall exercise the following powers and shall perform the following functions, namely:—

- (a) to receive and investigate applications for legal service and advice to eligible persons with regard to the legal proceedings in the courts at District, Sub-Divisional and Tehsil headquarters ;
- (b) to maintain Panels of legal practitioners to give legal service and advice within their areas of jurisdiction.
- (c) to arrange to make payment of honorarium to legal practitioners on the panel for legal service or advice provided by them and generally to provide for other costs, charges and expenses of legal aid from funds placed at the disposal of the committee ;
- (d) to take proceedings for recovery of costs, charges and other expenses recoverable under rule and to ensure that the same are credited to Government ;
- (e) to prepare, consolidate and submit such returns, reports and statistical information in regard to the legal service programme within its area of jurisdiction as the State Level Committee/Board may call for ; and
- (f) to submit recommendations and suggest improvements in the working of legal service.

14. *Meetings of the Committees.*—Every Committee shall ordinarily meet once in a month on such date and at such place, as the Member Secretary may in consultation with the Chairman decide.

15. *Travelling and Daily Allowance to Members of the Committees.*—(1) No member of any committee shall be entitled to any remuneration for any work connected with functions of committees.

(2) The member of the Committee who is nominated from amongst the members of State Legislature shall be paid travelling and daily allowances as may be admissible to him as such member of the State Legislature. The non-official members of the District Level Committee shall be paid TA/DA as are admissible to Class I officers of the State Government.

16. *Maintenance of accounts by the Committees.*—(1) The Board shall from time to time allocate funds to various Committees out of the amounts placed at its disposal by the State Government for the purpose of enabling the Committees to carry out their functions under the rules.

(2) All expenditure on legal service or legal advice, travelling and other allowances, accommodation and staff of the Committees and provision of legal services as also expenditure necessary for carrying out the various functions of the Committees under the rules, shall be made out of the funds provided by the Board.

(3) The Committees shall cause to be kept and maintained true and correct accounts of all receipt and disbursements and furnish quarterly returns to the Board and in case of District Level Committee such reports shall be furnished to the State Level Committee.

(4) The accounts of every committee shall be audited at such intervals and by such auditors as the State Government may direct. A copy of the audit report shall be forwarded to the Board.

17. *Staff, Office accommodation, etc.*—The State Government will make the necessary arrangements for staff, office accommodation and other facilities as are necessary for the proper discharge of the functions of the Committees under these rules.

CHAPTER IV

Legal Service and Advice

18. *Eligibility for legal service and Advice.*—Legal service or advice may be given to all persons who are *bona fide* residents of the State of Haryana and whose total annual income from all sources does not exceed Rs 2,400 per annum:

Provided that the limitation as to annual income shall not apply in cases of disputes where one of the parties belongs to Scheduled Caste/Scheduled Tribes or is a woman or a child:

Provided further that the Committee may grant legal service:—

- (i) in cases of great public importance, or
- (ii) in a test case, the decision of which is likely to effect cases of numerous other persons belonging to the weaker sections of the community; or
- (iii) in a special case, which for reasons to be recorded in writing is considered otherwise deserving of legal service and advice where the means test is not satisfied.

19. *Matters on which legal advice is admissible.*—Legal advice may be given in all matters and such advice shall be aimed at,—

- (a) amicable settlement of the dispute by bringing about conciliation between the parties to the dispute; and
- (b) rendering assistance in complying with various legal requirements in order to secure the benefits under various schemes sponsored by or on behalf of the Central or State Government or any other public authority for the welfare of the general public or any section thereof.

20. *Modes of Legal Service.*—Legal Service may be given in all or any one or more of the following modes, namely:—

- (a) payment of court fees, process fee, expenses of witnesses and all other charges payable or incurred in connection with any legal proceedings;
- (b) representation by a legal practitioner in legal proceedings;
- (c) supply of certified copies of judgments, orders, notes or evidence and other documents in legal proceedings;
- (d) preparation of Appeal Paper Book, including printing and translation of documents in legal proceedings; and
- (e) drafting of legal documents.

21. *Legal Service not to be given in certain cases.*—Legal Service shall not be given in the following cases, namely :—

- (1) proceedings wholly or partly in respect of ;
 - (a) defamation ; or
 - (b) malicious prosecution.
- (2) proceedings relating to any election ;
- (3) proceedings incidental to any proceedings referred in items (1) and (2) ;
- (4) proceedings in respect of offence punishable with fine only ;
- (5) proceedings in respect of economic offences and offences against social laws, such as the Protection of Civil Rights Act, 1955 and the Suppression of Immoral Traffic in Women and Girls Act, 1956; and
- (6) where a person seeking legal service—
 - (a) is concerned with the proceedings only in a representative or official capacity ; or
 - (b) is concerned with the proceedings jointly with some other person or persons whose interests are identical with his and such person or any of such persons is adequately represented in the proceedings ; or
 - (c) is a formal party to the proceedings, not materially concerned in the outcome of the proceedings and interests are not likely to be prejudiced on account of the absence of proper representation.

CHAPTER V

Procedure

22. *Application for Legal (Aid) Service and Advice.*—(1) Any person desiring legal aid or advice may make an application, addressed to the Member Secretary of the Committee concerned ;

(2) The Committee shall maintain a register of applications wherein all applications for legal aid and advice shall be entered and registered.

23. *Disposal of applications.*—(1) On receipt of an application under rule 22 of the rules, the Member Secretary shall scrutinise the application for the purpose of declaring whether the applicant is deserving of legal service in accordance with the provisions of these rules and for the purpose of arriving at such decision, he may require the applicant to supply further information as may be necessary and also discuss the matter personally with the applicant and in doing so he shall have regard to the fact that the applicant belongs to a weaker section of the community and is required to be assisted even in the matter of obtaining legal service. The application shall be processed as early as possible and preferably within fifteen days.

(2) The decision of the Member-Secretary to give legal service shall be final, subject to the confirmation by the Committee. If the Member-Secretary is of the opinion that the applicant is not deserving of legal service, he shall place the matter before the Committee whose decision shall be final.

(3) Where it is decided not to give legal aid to an applicant the reasons for not doing so shall be entered in the Register of applications maintained by the Committee and information in writing to effect shall be communicated to the applicant.

(4) No application for legal service shall be granted, or continued after the legal service is granted, if the Committee is satisfied that,

- (a) the applicant has knowingly made false statement or furnished false information as regards his means or place of residence; or
- (b) in a proceedings other than the one relating to criminal prosecution, there is no prima facie case to institute, or as the case may be, to defend the proceedings ; or

- (c) the application is frivolous and fictitious ; or
- (d) the applicant is not entitled to the same under rule 21 or any other provisions of the rules ; or
- (e) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.

24. *Panels for legal service and advice.*—(1) Every Committee shall form such number of Panels of Legal Practitioners as it may consider necessary.

(2) Every such panel shall be constituted for a period of two years from the date of its constitution.

(3) Appointment of a legal practitioner for legal service and advice under these rules shall be made from the Panel of Legal Practitioners constituted by the Committees.

(4) Every person included in the Panel shall be required to communicate in writing to the Chairman of the Committee concerned, his willingness to serve on the Panel.

(5) Any person on the Panel may tender his resignation in writing to the Chairman of the Committee.

(6) Any vacancy in the Panel caused by resignation or otherwise may be filled up by the Committee, as soon as possible.

(7) If any person after having agreed to serve on a Panel, neglects or refuses to discharge the duties properly, the Committee may delete his name from the Panel after giving him opportunity to be heard.

(8) If any person after having agreed to serve on a Panel, neglects or without sufficient cause refuses to accept an assignment or is otherwise guilty of misconduct or is guilty of breach of any of the provisions of the rules, shall be liable to be removed from the Panel.

(9) Save as otherwise directed by the Committee, a Legal Practitioner who ceases to be on the Panel whether on account of resignation or otherwise, shall as soon as practicable, after he so ceases to be on the Panel, deliver up all the papers pertaining to cases entrusted to him, to the Member Secretary of the Committee.

25. *Duties of Panel Members.*—(1) When the Committee has extended legal service or advice then.—

- (a) where it is a case of legal advice, the legal practitioner shall hear the aided person or any other person representing him, examine the papers and documents relating to the case and tender in writing his opinion on the merits and his advice thereon ; and
- (b) where it is a case of legal service, the legal practitioner shall represent the aided person and act and plead for him in the legal proceedings.
- (2) (a) Where action is taken by a legal practitioner under sub-clause (a) of clause (1), he shall give his opinion and advice to the aided person and also send a copy of the same to the Member-Secretary of the Committee.
- (b) Where action is taken by a legal practitioner under sub-clause (b) of clause (1) he shall forthwith make a report to the Member Secretary of the Committee on the action taken by him and also make monthly reports to the Member-Secretary in regard to the progress of the legal proceedings. The Legal practitioner shall act in accordance with such instructions as may be given to him, from time to time, by the Committee concerned.

26. *Honorarium payable to Legal Practitioners on the Panel.*—(1) The legal practitioners on the Panel shall be paid following honorarium, namely :—

- (a) in all legal proceedings in the Hon'ble High Court for the States of Punjab, Haryana and in the Hon'ble Supreme Court of India, Rs 50 per day subject to a maximum of Rs 300 in any one case,—
- (b) in all legal proceedings in the courts at the headquarters of District, Sub-Division and Tehsil Rs 30 per day subject to a maximum of Rs 200 in any one case.

(2) No legal practitioner to whom any case is assigned either for legal advice or for legal service shall receive any fee or remuneration whether in cash or in kind or any other advantage, monetary or otherwise, from the aided person or from any other person on his behalf.

(3) The legal practitioner on the Panel, who has completed his assignment, shall submit a statement showing the honorarium due to him in connection with the legal proceedings conducted by him on behalf of the legally aided person, to the Member-Secretary of the Committee, who shall after due scrutiny and counter-signature place the same before the Committee, the amount shall be paid by the Member-Secretary to the Legal practitioner. It shall, however, be open to the legal practitioner to waive the honorarium wholly or partially.

27. *Duties of aided person.*—(1) A person seeking legal aid or advice shall comply with any requisition or direction that may be made upon him by the Committee or any of its Member from the date the application for legal aid or advice is made till the completion or cessation of legal aid or cancellation of eligibility.

(2) Every such person shall execute an agreement agreeing in the event of the Court passing a decree or order in his favour awarding costs to him or other monetary benefit of advantage, to repay by way of reimbursement to the Committee all costs, charges and expenses incurred by the Committee in giving him legal aid. For facilitating such reimbursement he shall execute an irrevocable Power of Attorney authorising the Member Secretary of the Committee to do all such acts and things as may be necessary for recovery of realisation of the amount decreed or ordered to be paid to him. The costs, charges and expenses which may be recovered by the Committee as aforesaid shall be credited to the State Government.

28. *Preparation of Budget and audit of Accounts.*—(1) A proposal regarding annual Budget under the rules shall be prepared by the office of the State Level Committee and shall place it before the Board for its approval. The Board shall submit the proposal as approved to the State Government and obtain sanction.

(2) The Member Secretary of the Board/State Level Committee/District Level Committee, as the case may be shall operate the accounts. He shall also be responsible for the custody and management of the funds and properties of the Board/Committee and shall discharge such other functions and duties as the Board may assign to him.

(3) The accounts of the State Level Committee and the District Level Committee shall be audited in such manner as the Board may determine.

CHAPTER—VI

Miscellaneous

29. *Power to give directions.*—The Board may, from time to time, issue directions to the Committees to carry out the purposes of this scheme and the Committees shall be bound to carry out such directions.

30. *Interpretation.*—If any question arises as to the interpretation of these rules, the decision of the Secretary to the Government, Administration of Justice Department, Haryana, shall be final.

L. C. GUPTA,

Financial Commissioner and Secretary to Government, Haryana,
Administration of Justice Department.